

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

In the Matter of :

Store for Less
1012 West Carson Street
Long Beach, CA 90810

Responsible Parties:
Spongberg, Kirkland and Associates
General Partners of Long Beach
Freeway Ltd.,

Lester Friedman

Respondents

Proceeding under Section 106 of the
Comprehensive Environmental Response,
Compensation and Liability Act of 1980,
as amended by the Superfund Amendments
and Reauthorization Act of 1986,
(42 U.S.C. Section 9606).

EPA ADMINISTRATIVE
Docket Number 91-11

I. Jurisdiction

This Order is issued to Spongberg, Kirkland and Associates, General Partners of Long Beach Freeway Ltd., and Lester Friedman, ("Respondents") pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601, et seq., (CERCLA), by authority delegated to the Administrator of the United States Environmental Protection Agency ("EPA"), and redelegated to the EPA Regions.

The Director of the Hazardous Waste Management Division, EPA Region 9, has determined that there may be an imminent and substantial endangerment to the public health or welfare or the en-

1 vironment because of the release or threatened release of
2 hazardous substances from two storage containers located at the
3 Store for Less facility located at 1012 West Carson Street, Long
4 Beach, Los Angeles County, California (the "Site").

6 II. Findings of Fact

7 BACKGROUND

8 A. In July of 1985, Long Beach Freeway Ltd. purchased the
9 Site and began the self-storage business known as Store for Less.
10 Store for Less is a self-storage facility located at 1012 West
11 Carson Street, Long Beach, California, 90810. The Site consists
12 of several large warehouses with small rental compartments and an
13 office building. The Site is surrounded by a perimeter concrete
14 wall and secure access gate. The Site is located within a light
15 industrial/residential area. Interstate 710, the Long Beach
16 Freeway, lies approximately 500 feet west of the Site and two
17 horse stables border the property.

18
19 B. Two storage lockers at the Site were leased to Lester
20 Friedman of 3671 H Country Club Drive, Long Beach, California.
21 Mr. Friedman became delinquent in this lease payments, and the
22 Site owners initiated a lien sale of the contents of the storage
23 units. The Site owners realizing that the chemicals may pose a
24 problem reported their findings to the Long Beach Health and
25 Human Services Department.

26
27 C. On November 8, 1988, an inspection of the Site was con-
28 ducted by the Long Beach City Fire Department, Los Angeles County

1 Fire Department Hazardous Materials Unit, and Long Beach City
2 Health and Human Services Department (LBHHSD). This inspection
3 revealed that two storage unit lockers at the Site contained ap-
4 proximately 2,100 chemical containers of various sizes (gram
5 bottles to 25 gallon drums) and laboratory equipment.

6
7 D. Samples collected by the LBHHSD revealed the presence of
8 mercuric compounds, cyanide, arsenic, chlorinated solvents,
9 bromine, and trinitro-organic compounds. The LBHHSD issued the
10 Respondents an order to identify, package and remove the chemi-
11 cals from the Site.

12
13 E. Shields Environmental was contracted by the property
14 owners. Shields began inventorying and hazard classifying the
15 chemicals. Several hundred containers were lab packed and
16 shipped under manifest to Casmalia Resources. Shields Environ-
17 mental ceased site activities in February of 1990, after the
18 property owners failed to compensate them for their services.
19 On February 8, 1990, the owners notified LBHHSD that they did not
20 have adequate funds to continue the cleanup, and they were look-
21 ing for a less expensive contractor.

22
23 F. The remaining chemicals on-site were placed into two sea
24 container boxes located on the Site. The southern container con-
25 tained lab packed and containerized drums of chemicals, and the
26 northern box contained unknown chemicals and several boxes con-
27 taining hundreds of chemical containers.

1 G. On November 6, 1990, LBHHSD issued the property owners
2 another letter requesting that they comply with local and state
3 regulations governing the storage of chemicals. The owners made
4 no reply to the request.

5
6 H. On January 22, 1991, LBHHDS contacted Shields Environmen-
7 tal to discuss the inventory of the remaining chemicals. Shields
8 provided LBHHDS a partial inventory of the remaining chemicals.
9 This inventory included numerous mercury compounds, lithium and
10 thorium nitrates, potentially crystallized and explosive picric
11 acid and other dinitro and trinitro-organic compounds, and
12 several containers of unknown compounds.

13
14 I. On March 25, 1991, a meeting was held between the LBHHSD
15 and the California Department of Health Services (CDHS) concern-
16 ing the storage of the remaining chemicals at the Site. As a
17 result of the information presented at the meeting, John A Hin-
18 ton, Regional Administrator for the Department of Health Services
19 issued an Imminent and Substantial Endangerment Determination and
20 Order to Spongberg, Kirkland and Associates. The Order called
21 for the owners to immediately close the Site to the public and
22 provide for twenty-four hour security to restrict access.

23
24 J. On April 2, 1991, an interagency meeting was held in
25 Long Beach to discuss the Site and entry into the sea box con-
26 tainers to assess the condition of the chemicals. Present at the
27 meeting were representatives of the Environmental Protection
28 Agency's Emergency Response Section, CDHS, LBHHDS, Long Beach

1 Police and Fire Departments, Los Angeles County Fire and Sheriff
2 Departments, California Department of Transportation, City of
3 Long Beach Animal Control, and District Attorneys Office. It was
4 determined by the agencies that the condition of the chemicals
5 within the storage containers needed to be immediately accessed
6 due to their explosive and reactive nature.

7
8 K. On April 3, 1991, a search warrant was served at the
9 Site to allow access into the facility to investigate the con-
10 tents of the sea box containers. EPA On-Scene-Coordinator Robert
11 Bornstein and two members of the EPA contracted Technical Assis-
12 tant team made entry into the container boxes. The entry
13 revealed that the southern sea box container, indeed, contained
14 several hundred lab packed five gallon containers. The con-
15 tainers were in generally good condition but were not properly
16 segregated or labeled, in violation of the Resource Conservation
17 and Recovery and posed a fire/explosion threat. The northern
18 sea box contained hundreds of unknown inorganic and organic
19 chemicals, mercuric compounds, radioactive uranium salts,
20 chlorinated solvents, picric acid, cyanide compounds and poten-
21 tial ether bottles. The chemical containers were in poor condi-
22 tion and several compounds were leaking or crystallizing. A
23 second entry was made into the boxes by members of the Los An-
24 geles County Sheriff's Department Bomb Squad .

25
26 L. It was determined by the Bomb Squad that the picric acid
27 was in an unstable condition and required detonation. In addi-
28 tion, OSC Bornstein determined that the condition of the chemi-

1 cals posed an imminent and substantial threat to the public and
2 environment.

3
4 M. OSC Bornstein and OSC Martyn notified Roland Spongberg
5 and Scott Kirkland of Spongberg, Kirkland and Associates that
6 they are potential responsible parties under CERCLA; and there-
7 fore, they must take immediate measures to address the iden-
8 tification, packaging and disposal of all the hazardous sub-
9 stances present within the two storage containers.

10
11 ENDANGERMENT

12
13 N. The nature, and condition of the chemicals identify
14 during EPA's initial assessment pose an imminent and substantial
15 threat to the surrounding community and environment. Identified
16 on-site are several containers of crystallized picric acid,
17 reagent grade nitric and perchloric acids, mercuric compounds,
18 cyanide compounds, chlorinated solvents and other potentially
19 hazardous chemicals. Picric acid when crystallized becomes
20 quite unstable and may explode when exposed to heat, flame or
21 shock. Direct contact may cause burns to skin and eyes and a
22 fire will result in the release of irritating and/or poisonous
23 gases. The presence of strong oxidizing acids, such as
24 perchloric acid, within contact with cyanide and/or other salt
25 compounds could potentially cause a release of deadly hydrogen
26 cyanide or other toxic gas and/or fire.

27
28 O. The most immediate health threat to the surrounding human

1 population posed by the Site is acute trauma resulting from
2 shrapnel and debris from a chemical explosion at the Site.
3 Secondly, the local population and neighboring horses would be
4 potentially exposed to plumes of toxic chemical gases. Other
5 health threats associated with exposure to the hazardous sub-
6 stances include acute trauma as well as permanent damage to the
7 major organ systems of the body, eyes and skin.

10 III. Conclusions of Law

11 A. Spongberg, Kirkland and Associates, General Partners of
12 Long Beach Freeway Ltd. are current property owners and operators
13 of the Site. Lester Friedman leased and stored chemicals at the
14 Site. Each Respondent is a "person" as defined in Section
15 101(21) of CERCLA, 42 U.S.C. Section 9601(21).

16 B. Store for Less, located at 1012 West Carson Street, Long
17 Beach, California is a "facility" as defined in Section 101(9) of
18 CERCLA, 42 U.S.C. Section 9601(9).

19 C. The chemicals stored with the two sea storage boxes
20 present at the Site, which include but are not limited to, picric
21 acid, mercuric compounds, inorganic and organic solvents, acids
22 and reagents, are "hazardous substances" as defined in Section
23 101(14) of CERCLA, 42 U.S.C. Section 9601(14).

24 D. The presence of hazardous substances on the Store for
25 Less Site and the potential for those substances to migrate and
26 adversely impact the local population, horses and environment
27 constitutes a "release" or "threatened release" of hazardous sub-
28 stances into the environment as defined in Section 101(22) of

1 CERCLA, 42 U.S.C. Section 9601(22).

2 E. Each Respondents is a "responsible party" as defined in
3 Section 107(a)(1) of CERCLA, 42 U.S.C. Section 9607(a)(1).
4

5 **IV. Determinations**

6 Based on the Findings of Fact and Conclusions of Law, the
7 Director, Hazardous Waste Management Division, EPA Region 9, has
8 made the following determinations:

9 A. The release or threatened release of hazardous sub-
10 stances and pollutants or contaminants from the Site may present
11 an imminent and substantial endangerment to the public health,
12 welfare, and the environment.

13 B. In order to prevent or mitigate immediate and sig-
14 nificant risk of harm to human health and the environment, it is
15 necessary that actions be taken immediately to contain and
16 prevent the release and potential release of hazardous sub-
17 stances, pollutants or contaminants from the Site.

18 C. The removal measures required by this Order are consis-
19 tent with the National Oil and Hazardous Substances Pollution
20 Contingency Plan, 40 Code of Federal Regulations, Part 300.
21

22 **V. Order**

23 Based upon the Findings of Fact, Conclusions of Law and
24 Determinations, **EPA HEREBY ORDERS** the Respondents to implement
25 the following measures under the direction of EPA's On-Scene
26 Coordinator.
27

28 A. Immediately restrict the entry to the Site and provide

1 for twenty-four hour security until otherwise specified by the
2 EPA's On-Scene-Coordinator. Immediately, allow EPA, its contrac-
3 tors, State and Local Authorities unlimited access to remove,
4 detonate and/or treat all potentially explosive hazardous sub-
5 stances staged at the Site.

6
7 B. Within twenty-four hours of the effective date of this
8 Order, Respondents shall submit in writing, for EPA review and
9 approval, a Site Removal and Stabilization Plan and Schedule
10 ("Workplan"). The Workplan shall include provisions for the fol-
11 lowing activities to be completed within the timeframes set
12 forth:

- 13 1) Within fourteen days (14) calendar days after the
14 effective date of this Order, the Respondents must
15 identify, containerize, package and segregate all
the hazardous substances present within the two
sea box containers present on-site.
- 16 2) Within twenty-one (21) calendar days after the
17 effective date of this Order, the Respondents
18 must transport and dispose all hazardous substances
19 present on-site. All shipments must conform with
State and Federal regulations governing the
packaging and transportation of hazardous
substances.

20 If EPA provides comments on the Workplan, Respondents shall in-
21 corporate all of EPA's comments and resubmit the plan within
22 three (3) calendar days after receiving any such EPA comments.
23 Upon EPA approval of the Workplan, Respondents shall commence im-
24 plementation. The EPA approved Workplan shall be incorporated
25 into this Order and shall be enforceable under the terms of this
26 Order. The Workplan shall be in accordance with appropriate EPA
27 guidances and those directed for use by the OSC.
28

1
2 C. Prior to the commencement of site activities, Respon-
3 dents shall submit in writing, for EPA review and approval, a
4 Site Health and Safety Plan. The Site Health and Safety Plan
5 must conform to the requirements outlined in the Standard Operat-
6 ing Safety Guide, U.S. EPA, Office of Emergency and Remedial
7 Response Support Division, Edison, New Jersey, November 1984, up-
8 dated July 1988. All work conducted pursuant to this Order shall
9 conform with the approved Site Health and Safety Plan and all ap-
10 plicable Occupational Safety and Health Administration, (OSHA)
11 regulations. If EPA provides comments on the Site Health and
12 Safety Plan, Respondents shall incorporate all of EPA's comments
13 and resubmit the plan within three (3) calendar days of receiving
14 any such EPA comments.

15
16 D. All sampling and analysis shall be consistent with the
17 "Removal Program Quality Assurance/Quality Control Interim
18 Guidance: Sampling, QA/QC Plan and Data Validation", EPA OSWER
19 Directive 9360.4-01, dated February 2, 1989.

20
21 E. During the implementation of the Workplan and the Sam-
22 pling Plan, Respondents shall provide written weekly summary
23 reports to EPA, the California Department of Health Services,
24 Long Beach Health and Human Service Department and Long Beach
25 Fire Department. These weekly reports shall contain a summary of
26 the previous week's activities and planned up-coming events.

27
28 F. At the conclusion of the removal action, Respondents

1 shall prepare a final report summarizing the work conducted pur-
2 suant to this Order. The final report shall contain copies of
3 any hazardous waste manifests, and analytical data. The final
4 report shall be submitted to EPA no later than fourteen (14)
5 calendar days following the final transportation and disposal of
6 on-site hazardous substances.

7
8 G. Respondents shall provide notice to EPA, California
9 Department of Health Services, Long Beach Health and Human Serv-
10 ices Department and Long Beach Fire Department twenty-fours in
11 advance of any site work.

12 13 **VI. Compliance With Other Laws**

14 Respondents shall comply with all federal, state and local
15 laws and regulations in carrying out the terms of this Order.
16 All hazardous substances removed from the facility must be
17 handled in accordance with the Resource Conservation and Recovery
18 Act of 1976, 42 U.S.C. Section 6921, et seq., the regulations
19 promulgated under that Act, Section 121(d)(3) of CERCLA, 42
20 U.S.C. Section 9621(d)(3) and in accordance with 29 CFR 1910.120,
21 the Occupational Safety and Health Act Regulations for Hazardous
22 Waste Workers.

23 24 **VII. On-Scene Coordinator**

25 EPA has appointed an On-Scene Coordinator (OSC) for the Site
26 who has the authority vested in the On-Scene Coordinator by 40
27 C.F.R. Part 300, et seq. published at 50 Fed. Reg. 47969
28 (November 20, 1985). The authority includes, without limitation,

1 the right to be on-site at all reasonable times, observe, take
2 photographs and make other reports on the progress of the work as
3 the OSC deems appropriate, and review records, files, and docu-
4 ments relevant to the Order.

5
6 **VIII. Submittals**

7 All submittals and notifications to EPA required by this Or-
8 der or any approved proposal under this Order concerning
9 Store for Less, et al., Order number 91-11, shall be made to:

10 Jerry Clifford
11 Deputy Director for Superfund
12 U.S. Environmental Protection Agency
13 75 Hawthorne Street (Mail Code H-5)
14 San Francisco, California 94105

15 Copies of all submittals and notifications shall be sent to the
16 On-Scene Coordinator.

17 Robert Bornstein
18 Emergency Response Section, H-8-3
19 U.S. Environmental Protection Agency
20 75 Hawthorne Street
21 San Francisco, CA 94105
22 OFFICE 415-744-2298
23 FAX 415-744-1916

24 All approvals and decisions of EPA made regarding the sub-
25 mittals and modifications shall be communicated to Respondents by
26 the Deputy Director for Superfund, Hazardous Waste Management
27 Division, EPA Region 9, or his designee. No informal advice,
28 guidance, suggestions, or comments by EPA regarding reports,
plans, specifications, schedules, or any other matter will

1 relieve Respondents of their obligation to obtain formal ap-
2 provals as required by this Order.

4 **IX. Access**

5 Respondents shall provide EPA employees and other represen-
6 tatives with complete access to the facility at all times. Noth-
7 ing in this Order limits any access rights that EPA or other
8 agencies may have pursuant to law.

10 **X. Endangerment During Implementation** ,

11 The Director, Hazardous Waste Management Division, EPA
12 Region 9, may determine that acts or circumstances (whether re-
13 lated to or unrelated to this Order) may endanger human health,
14 welfare or the environment and may order the Respondents to stop
15 further implementation of this Order until the endangerment is
16 abated.

18 **XI. Government Not Liable**

19 The United States Government and its employees and other
20 representatives shall not be liable for any injuries or damages
21 to persons or property resulting from the acts or omissions of
22 Respondents, their employees or other representatives caused by
23 carrying out this Order. For the purposes of this Order, the
24 United States Government is not a party to any contract with the
25 Respondents.

1 **XII. Noncompliance**

2 A. A willful violation or failure or refusal to comply with
3 this Order may subject Respondents to a civil penalty of up to
4 \$25,000 per day in which the violation occurs or failure to
5 comply continues, pursuant to the provisions of Section 106(b)(1)
6 of CERCLA, 42 U.S.C. Section 9606(b)(1). Failure to comply with
7 this Order without sufficient cause may also subject Respondents
8 to punitive damages of up to three times the total costs incurred
9 by the United States for Site response pursuant to Section
10 107(c)(3) of CERCLA, 42 U.S.C. Section 9607(c)(3).

11 B. EPA may take over the response action at any time if EPA
12 determines that Respondents are not taking appropriate action.
13 EPA may order additional actions it deems necessary to protect
14 public health, welfare, or the environment. In the event EPA as-
15 sumes responsibility for the response action, Respondents shall
16 be liable for all costs incurred by EPA.

17
18 **XIII. Opportunity to Confer**

19 A. Each Respondent may request a conference with the Deputy
20 Director for Superfund, Hazardous Waste Management Division, EPA
21 Region 9, or his designee, to discuss this Order. The purpose
22 and scope of the conference shall be limited to issues involving
23 the implementation of the response actions required by this Order
24 and the extent to which the Respondent intends to comply with
25 this Order. This conference is not an evidentiary hearing and
26 does not constitute a proceeding to challenge this Order. It
27 does not give Respondent a right to seek review of this Order, or
28 to seek resolution of potential liability. No official

1 stenographic record of the conference will be made. At any con-
2 ference held pursuant to Respondent's request, Respondent may ap-
3 pear in person or by an attorney or other representative.

4 B. Requests for a conference must be made orally within
5 twenty-four (24) hours after receipt of this Order. Written con-
6 firmation of the request must be mailed to the Deputy Director
7 for Superfund, Hazardous Waste Management Division, EPA Region 9,
8 no later than one day after the oral request.

9
10 **XIV. Parties Bound**

11 This Order shall apply to and is binding upon the Respon-
12 dents, their officers, directors, agents, employees, contractors,
13 successors, and assigns.

14
15 **XV. Notice of Intent to Comply**

16 Within twenty-four (24) hours of receipt of this Order,
17 Respondents shall orally inform EPA of their intent to comply
18 with the terms of this Order. The oral notice shall be confirmed
19 within one day by written notice to the Director. Failure to
20 punctually notify EPA of the Respondents' intent to fully comply
21 will be construed by EPA as a refusal to comply.

22
23 **XVI. Notice to State**

24 Notice of the issuance of this Order has been given to the
25 California Department of Health Services, Long Beach Health and
26 Human Services Department and Long Beach Fire Department. EPA
27 will consult with these agencies as appropriate.

1
2 **XVII. Effective Date**

3 Notwithstanding any conferences requested pursuant to the
4 provisions of this Order, this Order is effective upon the date
5 of execution by the Director, Hazardous Waste Management Divi-
6 sion, EPA Region 9.

7 IT IS SO ORDERED on this 5 day of April 1991.
8

9 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

10 by:



11 Jeffrey Zelikson, Director
12 Hazardous Waste Management Division
U.S. Environmental Protection Agency, Region 9

13 Contacts:

14 Robert Bornstein
15 Emergency Response Section, H-8-3
16 U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105
(415) 744-2298

17 Jeannie Risberg
18 Office of Regional Counsel
19 U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105
(415) 744-1351

20 Roger Vintze
21 California Department of Health Services
22 Toxic Substance Control Program
Region 4
245 West Broadway, Suite 350
23 Long Beach, CA 90802

24 Dick Smith
25 Long Beach Health and Human Service Deaprtment
26 2655 Pine Avenue
Long Beach, CA 90806

27 Gary Olson
28 Deputy Chief
City of Long Beach Fire Department
211 E. Ocean Blvd., Suite 500
Long Beach, CA 90802